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EXAMINER

LYNCH, PATRICK D

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3636

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,404	Applicant(s) MINUTH ET AL.	
	Examiner PATRICK LYNCH	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 15-23 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 15-23 and 25-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is a Final Office Action in response to communications filed August 8, 2008. Claims 13, 15, 19, and 23 have been amended, claims 14 and 24 have been cancelled. No new claims have been added. As such, claims 13, 15-23, and 25-29 are currently pending.

Response to Amendment

2. Applicant's amendments to the claims are sufficient to overcome the objections set forth in the previous office action. However, the amendments to the claims were insufficient to overcome all rejections under 35 U.S.C. 112, 2nd Paragraph, 35 U.S.C. 102, and 35 U.S.C. 103 set forth in the previous Office Action. Any maintained rejections, as well as further rejections necessitated by applicant's amendments are provided below.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the controllable ventilation channel closure operatively interacted with the at least one fan to provide active or passive ventilation must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The

figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 13 is objected to because of the following informalities: The passage “...ventilation channels arranged essentially transversely to the ventilation ducts, penetrate an overall thickness of the cushion core and extend from the ventilation ducts up to a rear wall facing away from at least one of the seat surface and backrest surface...” would be better written as “ventilation channels arranged essentially transversely to the ventilation ducts, *the ventilation channels penetrating* an overall thickness of the cushion core and *extending* from the ventilation ducts up to a rear wall facing away from *the* at least one of *a* seat surface and backrest surface...” (Italicized where altered). Appropriate correction is required.

6. Claim 25 is objected to because of the following informalities: The passage "...a respective opening in a mouth region of the ventilation channels in the actively ventilated vehicle seat, at least one of the ventilation channels is closed..." would be better written as, "...a respective opening in a mouth region of each ventilation channel, and at least one of the ventilation channels is closed". Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
8. Claims 13, 15-23, and 25-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
9. Regarding claim 13, applicant recites limitations directed to mutually exclusive features of a flow impermeable layer for use in either a passively ventilated seat, an actively ventilated seat, or a seat which may be used either passively or actively. More specifically, looking to lines 3-5 and 12-18, it appears that applicant is attempting to claim all three adaptations of the flow impermeable layer. The examiner understands that a nearly identical flow impermeable layer may be used for the actively ventilated seat and the passively ventilated seat (except that the passively ventilated seat has a flow impermeable layer that is pierced or removed in an area of the openings of the ventilation channels), yet it cannot be claimed that the ventilation channels are flow permeably connected to the surroundings in one

application (passive ventilation) but closed in an alternate application (active ventilation). Instead it should be claimed that at least one ventilation channel is closed for active ventilation, yet all of the ventilation channels *may be* flow permeably connected to the surroundings when used in a passive ventilation application.

10. For increased clarity of claim 13, the examiner suggests the following changes:
 - a. Instead of stating that the flow impermeable layer is "for use with a passively ventilated seat or alternatively with an actively ventilated seat" (as in lines 3-5), a limitation should state that the motor vehicle seat may be passively ventilated or actively ventilated (since it is already stated in the preamble that the components are for a motor vehicle seat). This limitation may be placed in the preamble, line 2 after the words "cushion core" for example.
 - b. Lines 12-15 should be amended to read along the lines of "for passively ventilating the vehicle seat, each of the ventilation channels may be flow permeably connected to the surroundings via an opening in the rear wall, and for actively ventilating the vehicle seat, at least one fan is provided and at least one ventilation channel is closed".
 - c. Lines 16-18 should be amended to read along the lines of "wherein the flow-impermeable layer is configured to be pierced or removed on a face of the layer opposite to an opening of at least one of the ventilation channels in order to flow permeably connect each of the ventilation channels to the surroundings."

- d. The examiner notes that the above suggested amendments are merely examples of possible claim language that would help to overcome the 35 U.S.C. 112, 2nd Paragraph rejections without significantly altering the scope of the claim, and several other alterations may be possible.
11. Regarding claim 15, the limitations that the cushion core has an opening in the rear wall and that at least one of the ventilation channels is closed in the in the actively ventilated seat is redundant as these limitations are already set forth in claim 13. The examiner suggests eliminating these limitations from the claim and rewriting the claim "...wherein the openings are in a mouth region of the ventilation channels."
12. Regarding claim 16, the claim depends from the cancelled claim 14. The examiner presumes that claim 16 should instead depend from claim 13.
13. Regarding claim 22, it appears that the controllable ventilation channel closure is used as the flow impermeable layer. The examiner suggests using the wording "...wherein the flow impermeable layer is a controllable ventilation channel closure that is operatively interacted with the at least one fan..."
14. Regarding claim 23, the limitation "...wherein the cushion core has, on the rear wall, a flow impermeable layer in a passively ventilated vehicle seat and is configured to be pierced or removed in a mouth region of at least one of the ventilation channels..." is unclear since the preamble of the claims sets forth that the seat is an actively ventilated seat. The examiner suggests that the limitation be altered to state "...wherein the cushion core has, on the rear wall, a flow

impermeable layer that is configured to be pierced or removed in a mouth region of at least one of the ventilation channels...”

15. Any unspecified claim is rejected as being dependent from a rejected base claim.

Claim Rejections - 35 USC § 102

16. As best understood, claims 13 and 15, 21, and 22 are rejected under 35

U.S.C. 102(b) as being anticipated by Fourrey (US 6,291,803).

17. Regarding claim 13, Fourrey discloses components for a motor vehicle seat (3) having a cushion core (12), comprising:

- a. A flow-impermeable layer (16, 18) on a rear wall of the cushion core wherein the seat may be passively ventilated (when fan 21 is turned off and flaps 24 are opened) or actively ventilated (when fan 21 is turned on and flaps 24 are closed);
- b. Ventillation ducts (8a, 8b) running along and inside at least one of a seat surface (5) and backrest surface;
- c. Ventilation channels (13) arranged essentially transversely to the ventilation ducts (Fig. 1 shows that the ventilation ducts 8a, 8b run in a horizontal plane from front to back beneath the seating surface while Fig. 2 shows the ventilation channels running vertically from top to bottom of the seat cushion) penetrating an overall thickness of the cushion core and extending from the ventilation ducts up to a rear wall facing away from at least one of the seat surface and backrest surface (Fig. 2 shows that the channels 13 extend completely through the cushion core 12).

- d. Wherein for passively ventilating the vehicle seat, the ventilation channels may be flow permeably connected to the surroundings via an opening in the rear wall, and for actively ventilating the vehicle seat, at least one fan is provided and at least one ventilation channel is closed. (As explained by the specification, the seat of Fourrey can operate in a forced operation mode. In the forced operation mode, the flaps 24 are closed and the fan 21 is started to blow hot air towards the seat. Alternatively when the car is parked and not in use the flaps are left open. Thus during forced operation, the seat is actively ventilated, a fan is provided, and the outer ventilation channels are closed due to the closing of the flaps. When the car is parked and turned off, the ventilation channels are connected to the surroundings due to the flaps being opened and the seat is passively ventilated.); and
 - e. The flow impermeable layer in the passively ventilated seat is configured to be pierced or removed (When actively ventilated and flaps 24 are closed, the flaps are considered part of the flow-impermeable layer. However, when passively ventilated as described above, the flaps open, and thus removed from the flow-impermeable layer.) on a face of the layer opposite to an opening of at least one of the ventilation channels.
18. Regarding claim 15, Fourrey et al. discloses that the openings are in a mouth region of the ventilation channels (The figures of Fourrey et al. show that the ventilation channels are open through the back surface of the cushion core at a mouth portion of the channels.).

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19. Regarding claim 21, Fourrey et al. discloses that for actively ventilating the seat there is at least one inflow channel (the two center channels 13) through which ambient air passes into the seat (and two outflow channels (the two outer channels) through which air passes from the vehicle seat into the surroundings.
20. Regarding claim 22, Fourrey et al. discloses that a controllable ventilation channel closure ("flaps" 24) is operatively interacted with at least one fan (21) to provide active or passive ventilation of the vehicle seat.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fourrey et al. (US 6,291,803) in view of Hartwich et al. (US 2004/0189061).
23. Regarding claim 16, Fourrey et al. discloses the claimed invention except that the flow impermeable layer, i.e. the seat pan is metal instead of plastic or felt. Hartwich et al., however, shows that a plastic impermeable seat pan layer (30) is an equivalent structure known in the art. Therefore, because these two air impermeable layers were art recognized equivalents at the time the invention was made, it would have been obvious to one having ordinary skill in the art to substitute a plastic layer for the metal layer of Fourrey et al. A plastic impermeable

seat pan layer would be beneficial since plastic is known to be inexpensive and easy to mold.

24. Regarding claim 17, Fenton as modified by Gregory et al. and Hartwich et al. discloses that the plastic layer is a film. (The word 'film' is rather broad and may be construed as any thin layer under a reasonably broad interpretation. Thus since the layer of Fenton, modified to be plastic by Hartwich may be considered a film since it is a thin layer of the seat assembly.).
25. Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fourrey et al. (US 6,291,803) in view of Fenton (US 3,770,318).
26. Regarding claim 18, Fourrey et al. discloses a series of components for a vehicle seat including all of the structure of claim 13, upon which claim 18 is dependent, as set forth above.
27. Fourrey et al. does not expressly disclose that the ventilation ducts are configured as a duct grid and intersect in a flow-connected manner.
28. Fenton, however, discloses a ventilated vehicle seat (Title) having both ventilation ducts (40) and ventilation channels (52) and wherein the ventilation ducts (40) are arranged in a duct grid and intersect in a flow connected manner (See Fig. 1). A grid system is the most efficient means of distributing ventilated air evenly over a surface.
29. Thus it would have been obvious to one having ordinary skill at the time the invention was made to modify the vehicle seat of Fourrey et al. by arranging the ventilation ducts in a duct grid where the ducts intersect in a flow connected

manner, similar to the seat of Fenton. This modification would be beneficial since a grid arrangement is the most efficient way to distribute ventilated air equally over all parts of the vehicle seat. Thus a grid system would provide a more evenly ventilated seating surface.

30. Regarding claim 20, Fourrey et al. as modified by Fenton discloses that the ventilation ducts and ventilation channels are arranged essentially regularly (Since upon modification by Fenton, the ducts are arranged in a grid, they are also arranged regularly.).
31. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fourrey et al. (US 6,291,803) in view of Suzuki et al. (US 6,062,641).
32. Regarding claim 19, Andersson et al. discloses components for a vehicle seat including all of the structure of claim 13, upon which claim 19 is dependent, as set forth above.
33. Fourrey et al. does not expressly disclose that the arrangement of at least one of the ventilation ducts and ventilation channels is adapted to be at least one of a body pressure distribution and body contact points.
34. Suzuki et al., however, discloses a seat apparatus with air flow (See Title) having ventilation ducts (24) and a ventilation channel (23). The ventilation ducts are arranged to correspond to the body pressure distribution of an occupant (Col. 3, lines 56-59, "...the position of the grooves 24 is selected based on the pressure distribution associated with an individual sitting on the seat cushion 20."). Suzuki et al. explains that the high pressure areas are areas that more difficult to breathe

and thus require active ventilation and air passages in order to sufficiently cool a user (See Col. 4, lines 1-4).

35. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle seat of Andersson et al. by arranging the ventilation ducts and ventilation channels such that they correspond to the pressure distribution of a typical seat occupant, similar to the arrangement of Suzuki et al. This modification would be beneficial since the areas of high pressure are the areas which need the most active ventilation since these are areas where it is more difficult for the cushion to breathe in the absence of ventilation ducts and forced air.
36. As best understood, claims 23, 25, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson et al. (US 6,578,910) in view of Buss et al. (US 2003/0230913).
37. Regarding claim 23, Andersson discloses an actively ventilated motor vehicle seat (See Title) having a cushion core, comprising ventilation ducts (3) running along and inside at least one of a seat surface (7) and a backrest surface, ventilation channels (2, 4) arranged essentially transversely to the ventilation ducts (As shown in Figs. 1 and 2, ducts 3 run in an essentially horizontal plane while channels 2 and 4 run vertically), so as to penetrate an overall thickness of the cushion core and extend from the ventilation ducts up to at least one of a rear wall facing away from the seat surface and backrest surface (Fig. 1 shows that the channels 2 extend all the way through the cushion core while the channels 4 extend all the way through

the cushion core through a connection by ducts 5 to channels 2.), and at least one fan (6), wherein at least one ventilation channel is closed (Figs. 2 and 3 show that channels 4 are closed under normal ventilating operation).

38. Andersson et al. does not expressly disclose a flow impermeable layer on the rear wall of the cushion core that is pierced or removed in a mouth region of at least one of the ventilation channels.
39. Buss et al., however, discloses a vehicle seat (See Title), including ventilation channels (48 and 50) and having a flow impermeable layer (44) that is pierced or removed (as there is no material at the mouth of the ventilation channels, the layer is considered to be pierced or removed there) in a mouth region of at least one of the ventilation channels (Paragraph [0016], "...air inlet channels 48 which extend perpendicularly with respect to the ventilation layer and which—penetrating the seat support 44—extend..."). This flow impermeable layer is merely the seat support and provides structural integrity to the cushion while the penetrations of the layer allow air to flow from beneath the seat through the cushion.
40. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle seat of Andersson et al. by including a flow impermeable layer having piercings in the mouth region of the ventilation channels, similar to the layer of Buss et al. This modification would be beneficial since the layer would provide provides structural integrity to the cushion while the penetrations of the layer would allow air to flow from beneath the seat through the cushion.

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41. Regarding claim 25, Andersson discloses that the cushion core has, on the rear wall, a respective opening in a mouth region of the ventilation channels (Col 3, lines 45-51, "These branch ducts 2 have comparatively large diameter and cross substantially the entire seat bottom. In direct connection with these branch ducts...a fan is arranged, which can exhaust air through the seat bottom, preferably from the upper side of the seat bottom to its underside."; Thus the bottom side of the cushion as a mouth which opens to the surroundings.), and in the actively ventilated seat, at least one of the ventilation channels is closed (See Fig. 2, when ventilation is actively occurring as an occupant is disposed in the seat, the channels 4 are closed.).
42. Regarding claim 29, Andersson discloses that the actively ventilated vehicle seat has at least one inflow channel (The vertical portions of ducts 3 located to at the sides of the seat are considered the inflow channels) through which ambient air passes into the vehicle seat (See arrows in Fig. 2), at least one outlet channel (2) through which air passes from the vehicle seat into the surroundings (See arrows in Fig. 2), and closed ventilation channels (4) arranged between the at least one inflow channel and the at least one outflow channel.
43. Claims 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson et al. (US 6,578,910), in view of Buss et al. (US 2003/0230913), as applied to claim 23 above, and further in view of Fenton (US 3,770,318).

44. Regarding claim 26, Andersson et al. as modified by Buss et al. discloses an actively ventilated vehicle seat including all of the structure of claim 23, upon which claim 26 is dependent, as set forth above.
45. Andersson et al. does not expressly disclose that the ventilation ducts are configured as a duct grid and intersect in a flow-connected manner.
46. Fenton, however, discloses a ventilated vehicle seat (Title) having both ventilation ducts (40) and ventilation channels (52) and wherein the ventilation ducts (40) are arranged in a duct grid and intersect in a flow connected manner (See Fig. 1). A grid system is the most efficient means of distributing ventilated air evenly over a surface.
47. Thus it would have been obvious to one having ordinary skill at the time the invention was made to modify the vehicle seat of Andersson et al. by arranging the ventilation ducts in a duct grid where the ducts intersecting a flow connected manner, similar to the seat of Fenton. This modification would be beneficial since a grid arrangement is the most efficient way to distribute ventilated air equally over all parts of the vehicle seat. Thus a grid system would provide a more evenly ventilated seating surface.

Response to Arguments

48. Applicant's arguments filed August 8, 2008 have been fully considered but they are not persuasive.

49. The examiner notes that any arguments with respect to claims 13 and 15-22 are moot in view of the new rejections that were necessitated by applicant's amendments to the claims and by applicant's remarks which provided a better understanding of applicant's attempt to claim the invention, despite failing to fully overcome the rejections under 35 U.S.C. 112, 2nd Paragraph.
50. Applicant further argues that Buss et al. fails to suggest a flow-impermeable layer that allows for active ventilation as well as passive ventilation by being pierceable or removable. Claims 23 and 25-29, however, set forth only an actively ventilated seat. Furthermore, the layer 44 of Buss et al. is in fact a flow-impermeable layer in that the layer itself (i.e. in the area where the openings for channels 48 do not exist) is impermeable. Air can travel between the seat and the surroundings through holes in the layer, which itself is impermeable, and the holes arise as a result of piercing or removing material in the area of the channels 48. Thus Buss et al. does disclose a flow-impermeable layer that is removed in an area of the channel.

Conclusion

51. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
52. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed

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within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

53. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICK LYNCH whose telephone number is (571)270-3736. The examiner can normally be reached on Monday-Friday, 8:30-5:00.
54. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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55. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David Dunn/
Supervisory Patent Examiner
Art Unit 3636

/P. L./
Examiner, Art Unit 3636
11/18/2008